committed by the other, operates as a condonation of the offense. *Phillips* v. *Phillips*, 102 Ark. 679, 144 S. W. 914; *Klekamp* v. *Klekamp*, 275 Ill. 98, 113 N. E. 852, Ann. Cas. 1918A, 663; *Day* v. *Day*, 71 Kan. 385, 80 Pac. 974, 6 Ann. Cas. 169. Condonation in divorce proceedings has the usual meaning of forgiveness and pardon, after full knowledge of the past wrong, on condition that it will not be repeated and that the offender shall thereafter treat the forgiving party with conjugal kindness. *Averbuch* v. *Averbuch*, 80 Wash. 257, 141 Pac. 701, Ann. Cas. 1916B, 873; *Weber* v. *Weber*, 195 Mo. App. 126, 189 S. W. 577; *Parker* v. *Parker* (Tex.)„ 204 S. W. 493. In cases of adultery condonation is more nearly conclusively presumed from cohabitation than in cases of cruelties or indignities. *Weber* v. *Weber*, *supra*. But an offense which has been condoned may be revived by a repetition of the same offense or of other marital offenses, and adultery will be revived by subsequent cruel and unkind treatment. *Fisher* v. *Fisher*, 93 Md. 298, 48 Atl. 833; *Kostachek* v. *Kostachek*, 40 Okl. 747, 140 Pac. 1021; *Langdon* v. *Langdon*, 25 Vt. 678, 60 Am. Dec. 296. To revive the original offense, the subsequent misconduct need not be such as in itself would justify a divorce. *Cochran* v. *Cochran*, 93 Minn. 284, 101 N. W. 179; *Jefferson* v. *Jefferson*, 168 Mass. 456, 47 N. E. 123; *Heist* v. *Heist*, 48 Neb. 794, 67 N. W. 790.

INTOXICATING LIQUORS—FORFEITURE OF VEHICLES IN WHICH LIQUOR IS BEING ILLEGALLY TRANSPORTED.—The defendant was tried and convicted of transporting spirituous liquors in violation of law. The automobile used by the defendant for transporting same, was seized by a sheriff and sought to be condemned and forfeited under the provisions of a statute providing that the right, title and interest of the defendant in and to the property so seized should be forfeited. The defendant had no right, title or interest in the automobile, but was merely an employee of the intervener, who had no knowledge that the automobile was being used for an unlawful purpose by the defendant. The intervener, who was not a defendant or party to the proceeding, filed a petition for a release of the automobile. *Held*, release granted. *State* v. *Johnson* (N. C.), 107 S. E. 433.

In the above case it will be observed that it was not the car itself which was sought to be condemned but the right, title and interest of the defendant in the car, which enabled the owner to intervene successfully.

The holdings in the federal cases are much more drastic since the property itself, merely the *res*, and not the defendant's right, title and interest therein is subject to condemnation and forfeiture, despite the innocence or want of knowledge of the owner, the proceeding being *in rem*. The holdings in these cases arose under statutes dealing with vehicles used in committing a fraud upon the revenue laws. *United States* v. *Mincey*, 254 Fed. 287, 5 A. L. R. 211; *United States* v. *Two Bay Mules*, 36 Fed. 84. Where a federal statute makes it a crime and provides a fine or imprisonment as the punishment for importing liquors into the United States, and makes no provision for the forfeiture of the vehicle

used, there cannot be a condemnation and forfeiture of it under another statute. *United States* v. *One Ford Automobile*, 259 Fed. 894.

However, under Act, Oct. 28, 1918, c. 85, Title 11, § 26, popularly known as the Volstead Act, the innocent owner of a vehicle is afforded greater protection against a forfeiture of his property as a result of an illegal use of it by his employee or other person. The section provides, that wherever an officer seizes a vehicle used in the illegal transportation of liquor, the liquor shall be destroyed, and unless good cause to the contrary is shown by the owner the vehicle also shall be condemned and sold. The owner must remove any imputation that he negligently intrusted his car to an employee or other person under circumstances from which he should have foreseen that it was likely to be illegally used. *United States* v. *W. W. Shaw Taxi, etc.*, 272 Fed. 491. It is also provided by the same section of the Volstead Act that a bona fide lien on the vehicle is protected if the lienor can show that his lien was created without any notice that the vehicle was to be used for the illegal transportation of liquor.

In condemnation proceedings by a State where the knowledge of the owner of the illegal use of the vehicle is material, the burden is on the State to show that it was so used with his knowledge. *Parks* v. *State* (Ga.), 104 S. E. 911. Owner must allege that he could not, by reasonable diligence, have obtained knowledge or notice of the illegal use of the car. *Glover* v. *State* (Ala.), 88 S. E. 437. Warning of a report that a person driving owner's car is using it in the transportation of liquors, although there is no actual notice of that fact, must be acted upon by the owner, and his failure to do so will amount to negligence, causing a forfeiture in condemnation proceedings. *Davenport* v. *State* (Ala.), 88 So. 557. The interest of a mortgagee cannot be confiscated where he has no knowledge of, or did not consent to, the illegal use of the automobile by the mortgagor, and it is not used under such circumstances as to impute knowledge or consent on the part of the mortgagee. *Seignious* v. *Limehouse*, 107 S. C. 548, 93 S. E. 193; *Peavler* v. *State* (Okl.), 193 Pac. 623. The same principle applies to a conditional sale. *Naylor* v. *Simmons* (Idaho), 194 Pac. 94. The motive power by which the vehicle is drawn or propelled is a part of the conveyance, so that a mule with its harness used to draw a buggy in which liquors are being conveyed are subject to seizure and condemnation. *Gates* v. *State*, 149 Ga. 472, 101 S. E. 769. Where the owner of an automobile did not consent to, or authorize the unlawful use of the car by his partner in a taxicab business and there was nothing to put him on inquiry as to the acts of the latter, the car so used was not subject to condemnation. *Eckl* v. *State* (Ala.), 88 So. 567.

In Virginia the situation with regard to the forfeiture of the vehicle has been modified by an amendment to the Prohibition Act of 1918. The Act formerly provided that the proceeding was in rem against the vehicle, regardless of the ignorance of the owner that it was being put to an illegal use by another. His innocence as to the use being no defense; the test of liability being the guilty knowledge of the person in charge. *Landers* v. *Commonwealth*, 126 Va. 780, 101 S. E. 778; see 6

Va. Law Rev. 583. By the Acts of Assembly 1920, page 427, the innocent owner is now afforded some degree of protection by virtue of an amendment to the Act of 1918. Thus the drastic means first employed to combat the illegal transportation of liquor, resulting in a hardship upon innocent vehicle owners, in many instances has been modified so that in operation it now resembles similar statutes in other States and is on a plane with the Volstead Act.

LANDLORD AND TENANT—MORTGAGE SALE PURCHASER ACCEPTING RENT AFFIRMS TENANT'S LEASE.—The defendant leased property for a term of three years with an option to renew for seven years. There was a mortgage upon the property at the time the lease was made. The lease required due notice from the defendant of his intention to renew. The mortgagee purchased the property at a foreclosure sale, took an assignment of the lease, and received rents for a year from the defendant. The mortgagee then sold the property, assigning the lease, to the plaintiff who was at that time a subtenant of the defendant, holding with knowledge of the defendant's option. The defendant gave due notice to the plaintiff of his intention to renew the lease for seven years. Thereupon the plaintiff sought by legal proceedings to dispossess the defendant. No rent was due and no covenants broken. *Held*, defendant was entitled to possession until the expiration of the ten year period. *Curry* v. *Bacharach Quality Shops* (Pa.), 114 Atl. 818.

The rule of the common law is well established, that the mortgagor cannot without the consent of the mortgagee, execute a lease that will prevail against the mortgagee, and the entry of the mortgagee puts an end to the lease. *Keech* v. *Hall*, 1 Doug. 21, 99 Eng. Rep. R. 17. The mortgagee may recover in ejectment (without giving notice to quit) against a tenant who claims under a lease from the mortgagor granted after the mortgage, without the privity of the mortgagee. *Thunder* v. *Belcher*, 3 East 449, 102 Eng. Rep. R. 669; *Barelli* v. *Szymanski*, 14 La. Ann. 47; *Oakes* v. *Aldridge*, 46 Mo. App. 11; *Cummings* v. *Rosenberg*, 27 N. Y. Supp. 134; *Alvord* v. *Carver*, 31 Tex. Civ. App. 607, 72 S. W. 869. This general rule is sometimes qualified by the provision that in the absence of equitable grounds in favor of the lease, a foreclosure of a mortgage made prior to a lease terminates the lease. *Mercantile Trust Co.* v. *Sunset Road Oil Co.*, 176 Cal. 461, 168 Pac. 1037. Again the termination has been held absolute, but operative only after the lapse of the time allowed for redemption. *Chadbourn* v. *Rahilly*, 34 Minn. 346, 25 N. W. 633.

If the mortgagee, on entry for condition broken, receives rent from a tenant of the mortgagor, the relation of landlord and tenant will be thereby created between them. The mere receipt of rent, however, will not revive the original tenancy for the entire unexpired term of the lease, but only from year to year. *Doe ex dem. Hughes* v. *Bucknell*, 8 Car. & P. 566, 34 E. C. L. 527; *Thunder* v. *Belcher, supra; Gartside* v. *Outley*, 58 Ill. 210, 11 Am. Rep. 59.

An assignment of a lease is not sufficient to create the relationship of landlord and tenant without an attornment. *Oswald* v. *Mollett*, 29 Ill.